

# STROOCK

**Via ECF and Email**

November 25, 2013

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Hon. Andrew L. Carter, Jr.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 435  
New York, NY 10007

Re: Gilmour v. HSBC Bank (USA), N.A., et al./Case No. 1:13-cv-05896-ALC

Dear Judge Carter:

In order to preserve the resources of the Court and the parties, HSBC<sup>1</sup> respectfully requests that the Court stay briefing on HSBC's motion to dismiss until the Court rules on Assurant's<sup>2</sup> motion to transfer venue.<sup>3</sup> See Kwik Goal, Ltd. v. Youth Sports Publ'g, Inc., No. 06 CIV 395(HB), 2006 WL 1517598, at \*1 (S.D.N.Y. May 31, 2006) (noting the court previously "stayed the motion to dismiss pending decision on this transfer application"); see also Louis Vuitton Malletier S.A. v. LY USA, Inc., 676 F.3d 83, 96 (2d Cir. 2012) ("[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants." (quoting Landis v. N. Am. Co., 299 U.S. 248, 254, 57 S. Ct. 163, 81 L. Ed. 153 (1936))).

Delaying briefing on HSBC's motion to dismiss until after a ruling on Assurant's motion to transfer will preserve judicial resources because, if transfer is granted, only a single Court will need to consider the legal arguments related to HSBC's motion to dismiss.

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<sup>1</sup> HSBC refers collectively to HSBC Bank USA, N.A. and HSBC Mortgage Corporation (USA).

<sup>2</sup> Assurant refers collectively to Assurant, Inc. and American Security Insurance Co.

<sup>3</sup> On October 29, 2013, HSBC filed a pre-motion letter with this Court stating that it intended to file a motion to dismiss. On November 6, 2013, this Court entered an order setting the deadline for HSBC to file its motion to dismiss as December 17, 2013, with plaintiffs' response due on January 28, 2014 and HSBC's reply due on February 18, 2014. On November 6, 2013, Assurant filed a pre-motion letter with this Court stating that it intended to file a motion to transfer the action to the District of Delaware, and on November 14, 2013 this Court entered an order setting the deadline for Assurant to file its motion to transfer as December 17, 2013, with plaintiffs' response due on January 28, 2014 and Assurant's reply due on February 18, 2014.

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Moreover, because Assurant requests transfer outside of this Circuit, the controlling precedents will change if transfer is granted, forcing the parties to draft two sets of briefs regarding the motion to dismiss if transfer is granted.

On November 21, 2013, HSBC conferred with Assurant and plaintiff regarding the instant request. Assurant does not oppose HSBC's request, but plaintiff indicated that he will oppose it. HSBC has not previously requested an extension of time to file its motion to dismiss.

We are available to discuss this matter at the Court's convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Lisa M. Simonetti".

Lisa M. Simonetti

cc: All Counsel of Record